IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-10-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.15271 of 2007
and
MP No.3 of 2007

Sri Maragadambigai High School
96, Mariamman Koil Street
Tindivanam 604 001
rep. By its Secretary K.Devaraj .. Petitioner

vs

1.Director of School Education
Chennai 6
2.Director of Government of
Examination
Chennai 6
3.District Educational Officer
Tindivanam
Cuddalore District .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to grant recognition for up gradation of the petitioner High School by considering the application dated 13.4.2005 and publish the result of the 25 students who took the X Std. Public Examination from the petitioner School in March/April 2007.

For Petitioner : Mr.C.Selvaraju
Senior Counsel
for Mr.S.Mani

For Respondents : Mrs.Shanmugavalli Sekar
Government Advocate

ORDER

Seeking a writ of mandamus to direct the respondents to grant recognition for up-gradation of the petitioner High School by considering the application dated 13.4.2005, and publish the result of the 25 students who took the X Standard Public Examination from the petitioner School in March/April 2007, this writ petition has been brought forth.

2.The affidavit in support of the petition and the counter affidavit are perused. The Court heard the learned Counsel on either side.

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3.Admittedly, the petitioner School which was originally started as a Primary School in 1948, was granted temporary recognition. Following the same, permanent recognition was given on 1.9.1965. The same was upgraded as Middle School on 1.9.1982, and permanent recognition to that Middle School was given in the year 1986.

4.According to the petitioner, the School is situated in the midst of Tindivanam Town, and the strength of the school was gradually increased, and the petitioner applied for permission for upgrading the Middle School as High School commencing from 2005-2006, and the Chief Educational Officer inspected and recommended for the grant of permission for up-gradation. It is the further case of the petitioner that the Joint Director of School Education granted permission for upgrading the Middle School as High School from the academic year 2005-2006 by an order dated 24.10.2006; that while granting permission, one of the conditions imposed on 25.10.2006, was that the teachers from VI to VIII Standard should be transferred to High School section; that as per the condition, the management furnished the list of teachers with qualification working in the sanctioned post, and requested to give approval that the teachers working in the Middle School, were to be absorbed in the High School; that the same was accepted, and approval was given by the third respondent on 21.3.2006; that on the basis of the permission given by the department, the Middle School became High School; that in all stages whatever compliance they required, they have been scrupulously complied with; that while the matter stood thus, the first respondent by a letter dated 7.3.2007, informed that 25 students must be treated as private candidates on the ground that they studied in the unrecognized school and may be permitted to take examination as a special case; that the examination fee from the students has also been received as regular candidates; that they have also been assigned registration numbers also; that while the matter stood thus, to their surprise, such a communication was issued; that in view of the interim orders, they were permitted to write the examination; that since the up-gradation has not yet been granted to the petitioner High School, now an application was made on 13.4.2005 whereby all the requirements have been complied with; but, orders have not yet been passed, and under the circumstances, it became necessary for the petitioner to move this Court for necessary directions in this regard.

5.Opposing this petition, the learned Government Advocate would submit that it is true that 25 students were permitted to writ the examination; but, it was only on the humanitarian ground; that in the instant case, originally when necessary proposal for granting recognition to the High School was made, all necessary and required documents were to be furnished; but, it was in incomplete shape on 23.3.2006; that again, it was re-presented on 4.12.2006; that under such circumstances, the defects were noticed, and it was kept pending; and that further, the petitioner sent an explanation on 28.4.2007 stating that besides 8619 square feet available in the school premises, they have also got additional 3.22 acres of land which is situated ¾ km away from the school premises which would not

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satisfy the condition. Added further the learned Government Advocate that as per G.O.49 dated 1.3.2007, minimum 10 grounds of land is required for the purpose of School and play ground; but, in this case, it is not available; that under such circumstances, impediment was felt by the department; that for the two reasons that the necessary documents were not furnished and further, all the conditions imposed for up-gradation, were also not performed, it was the difficulty felt by the department, and hence, it has not considered.

6.In answer to the above, the learned Senior Counsel for the petitioner would submit that all the documents and certificates required for up-gradation, have actually been furnished in time, but not considered. Added further the learned Senior Counsel that in view of the G.O.49, the petitioner has purchased 7 ½ grounds, and for the remaining 2 ½ grounds, they entered into an agreement with the owner; that it would satisfy the requirement, and under the circumstances, it could be considered for up-gradation.

7.After going through the materials available and hearing the learned Counsel, this Court is of the considered opinion that a direction has got to be given to the respondents for consideration of the application of the petitioner for up-gradation of the petitioner High School. It is not in controversy that pursuant to the permission granted temporarily, 25 students have been allowed to write the examination in 2007, and now, the application has been made for up-gradation of the petitioner High School. The only reason for not considering the case of the petitioner for grant of recognition by the department, according to the learned Government Advocate, is that all the documents necessary in order to satisfy the conditions stipulated for granting recognition, were not furnished in time, and hence, it could not be done. The learned Government Advocate would further add that as per G.O.49, 10 grounds of land is required for the purpose of school and play ground, and now, it is not actually available, and under the circumstances, the difficulty is noticed. According to the learned Senior Counsel for the petitioner, all the documents which are required, have now been furnished, and following the same, the application was made on 13.4.2005. He would further add that in order to satisfy G.O.49, 7 ½ grounds has already been purchased, and in respect of 2 ½ grounds, an agreement has been entered into between the parties, and the same would be purchased by the petitioner School shortly, and thus, it would satisfy the requirement. According to the learned Senior Counsel for the petitioner, 2 ½ grounds could be purchased pursuant to the agreement already entered into, within a period of three months herefrom in order to satisfy G.O.49. Under such circumstances, this Court feels that a direction could be given to the respondents to consider the application of the petitioner dated 13.4.2005, for the grant of recognition of the petitioner High School within a period of six months from today. If the conditions are satisfied, no impediment could be felt by the department for granting recognition as one asked for by the petitioner.

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8.Accordingly, a direction is issued, and this writ petition is disposed of. No costs. Consequently, connected MP is closed.

nsv/

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1.The Director of School Education
Chennai 6
2.The Director of Government of
Examination
Chennai 6
3.The District Educational Officer
Tindivanam
Cuddalore District

+ 1 cc to Mr. S. Mani, Advocate SR No.63754

+ 1 cc to the Government Pleader, SR No.63693

WP No.15271 of 2007

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